THE BOMBAY HIGHWAYS ACT, 1955.

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SCHEDULE.

BOMBAY ACT No. LV OF 1955.[1]

[THE BOMBAY HIGHWAYS ACT, 1955.]

[*22nd December 1955*]

An Act to provide for the restriction of ribbon development along highways, for the prevention and removal of encroachment thereon, for the construction maintenance and development of highways, for the levy of betterment charges and for certain other matters.

WHEREAS it is expedient to provide for the restriction of ribbon development along highways, for the prevention and removal of encroachment thereon, for the construction, maintenance and development of highways, for the levy of betterment charges and for certain other matters ; It is hereby enacted in the Sixth Year of the Republic of India as follows :—

CHAPTER I.

Preliminary.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Highways Act, 1955.

(*2*) It shall extend to the whole of the State of Bombay.

(*3*) This section shall come into force at once. The State Government may, by notification in the *Official Gazette*, direct that all or any of the remaining provisions of this Act shall come into force in such area and on such date as may be specified in the notification :

Provided that the State Government may, by notification issued in like manner, exclude any road or way or class of roads or ways situate in such area from the operation of all or any of the provisions of this Act.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) " animal " means any domestic or captive animal ;

(*b*) " building " includes any erection of whatsoever material and in whatsoever manner constructed (including a farm building for agricultural purposes) and also includes plinths, doorsteps, walls (including compound walls and fences) and the like ;

(*c*) " building line " means a line on either side of any highway or part of a highway fixed in respect of such highway or part by a notification under sub-section (*1*) of section 7 ;

11 of 1924 (*d*) " cantonment " means a cantonment established under the Cantonments Act, 1924 ;

(*e*) " control line " means a line on either side of a highway or part of a highway beyond the building line fixed in respect of such highway or part by a notification under sub-section (*1*) of section 7 ;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1954, Part V, page 330.

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(*f*) " encroachment " means any unauthorised occupation of any highway or part thereof, and includes an unauthorised—

(*i*) erection of a building or any other structure, balconies, porches, projections, on or over or overhanging the highway ;

(*ii*) occupation of a highway beyond the prescribed period, if any, for stacking building materials or goods of any other description, for exhibiting articles for sale, for erecting poles, awnings, tents, pandals, hoardings and other similar erections or for parking vehicles or stabling animals or for any other purpose, and

(*iii*) excavations or dumps of any sort made or extended on any highway or underneath such highway ;

(*g*) " to erect " with its grammatical variations in relation to a building means to construct, reconstruct, extend or alter structurally a building ;

(*h*) " excavation " in relation to any piece of land does not include any workings which do not pierce the surface of that piece of land ; but includes wells and tanks ;

(*i*) " highway " means any road or way over which the public have a right of way or are granted access and which is declared to be a highway under section 3. The expression includes,—

(*i*) any land acquired or demarcated with a view to construct a highway along it ;

(*ii*) the slopes, berms, borrow-pits, foot-paths, pavements and side, catch and boundary drains attached to such road or way ;

(*iii*) all bridges, culverts, causeways, carriageways and other structures, built on or across such road or way ; and

(*iv*) the trees, fences, posts, boundary, furlong and mile stones, and other highway accessories and materials and material stacked on the road or way ;

(*j*) " Highway Authority " means the authority appointed as such or to which the functions of such authority are entrusted under section 4 ;

(*k*) " highway boundaries " means the boundaries of a highway fixed in respect of such highway by a notification under sub-section (*1*) of section 7 ;

(*l*) " means of access " includes any means of access, whether private or public, for vehicles or for foot passengers and includes any street ;

(*m*) " middle of highway " means the point half-way between the highway boundaries ;

(*n*) " occupier " includes,—

(*a*) any person who for the time being is paying or is liable to pay to the owner rent or any portion of the rent of the premises in respect of which such rent is paid or is payable ;

(*b*) an owner living in or otherwise using his premises ;

(*c*) a rent-free tenant ;

(*d*) a licensee in occupation of any premises ; and

(*e*) any person who is liable to pay to the owner damages for the use and occupation of any premises ;

(*o*) " owner " means,—

(*a*) when used with reference to any premises, the person who receives the rent of the said premises or who would be entitled to receive the rent thereof if the premises were let and includes,—

(*i*) an agent or trustee who receives such rent on account of the owner;

(*ii*) an agent or trustee who receives the rent of, or is entrusted with, or concerned for, any premises devoted to religious or charitable purposes;

(*iii*) a receiver, sequestrator or manager appointed by any court of competent jurisdiction; and

(*iv*) a mortgagee-in-possession;

(*b*) when used with reference to an institution or a body corporate, the manager of such institution or body corporate;

(*p*) " prescribed " means prescribed by rules made under this Act;

IX of 1890. (*q*) " railway administration " has the same meaning as in the Indian Railways Act, 1890;

(*r*) " vehicle " includes a barrow, sledge, plough, drag and a wheeled conveyance of any description capable of being used on a highway;

(*s*) the expressions " land ", " persons interested " and " persons entitled to act " used in this Act shall have the same meaning as the said expressions have in the Land Acquisition Act, 1894.

I of 1894.

CHAPTER II.

Declaration of Highways, Highway Authorities and their powers and functions.

3. The State Government may, by notification in the *Official Gazette*, declare any road, way or land to be a highway and classify it as— Declaration of roads, ways or lands as highways.

(*i*) a State highway (Special),

(*ii*) a State highway,

(*iii*) a major district road,

(*iv*) other district road, or

(*v*) a village road.

4. The State Government may, by notification in the *Official Gazette*, appoint for the purpose of this Act or any of its provisions any person or any authority to be a Highway Authority for all the highways in the State or, in parts of the State, or for any particular highway or highways in the State, specified in the notification. Appointment of Highway Authorities.

Powers and duties of Highway Authorities.

5. Subject to such conditions as may be specified in the notification appointing a Highway Authority and subject to the general or special orders of the State Government, a Highway Authority shall exercise powers and discharge duties in accordance with the provisions of this Act for the restriction of ribbon development along highways, for the prevention and removal of encroachments and for all matters necessary and incidental to any or all of the above subjects. Also subject to the approval of the State Government and to such general or special orders which the State Government may make in this behalf, it shall be lawful to a Highway Authority to undertake the construction, maintenance, development or improvement of highways.

Officers and servants of Highway Authority.

6. For the purpose of enabling a Highway Authority to exercise the powers conferred and to discharge the duties imposed upon it by or under the provisions of this Act, the State Government may appoint such officers and servants as it deems necessary to work under such Authority.

CHAPTER III.

Restriction of Ribbon Development.

Power to fix boundary, building and control lines of highways.

7. (*1*) In any area in which the provisions of this Act have been brought into force, and,

(*i*) where any road, way or land has been declared to be a highway under section 3, or

(*ii*) where the construction or development of a highway is undertaken,

the State Government may, by notification in the *Official Gazette*, fix, as respects such highway, the highway boundary, the building line and the control line:

Provided that having regard to the situation or the requirements of a highway or the condition of the local area through which a highway passes, it shall be lawful for the State Government—

(1) to fix different building or control lines, or

(2) not to fix building or control lines,

in respect of any highway or portions thereof.

(*2*) Not less than sixty days before issuing a notification under sub-section (*1*) the State Government shall cause to be published in the *Official Gazette* and in the prescribed manner in the village and at the headquarters of the taluka or mahal of the district in which the highway is situate a notification stating that it proposes to issue a notification in terms of sub-section (*1*), and specifying therein all the lands situated between the highway boundary and the control line proposed to be fixed under such notification and in the case of new works, also lands benefiting by the construction or development of the highway, as the case may be, together with a notice requiring all persons affected by such notification, who wish to make any objections or suggestions with respect to the issue of such a notification, to submit their objections or suggestions in writing to the Highway Authority or appear before such authority, within two months of the publication of the notification in the *Official Gazette* or within one month from the date of the publication of the notification in the village, whichever period expires later.

(*3*) The Highway Authority shall, after all such objections or suggestions have been considered or heard, as the case may be, and after such further inquiry, if any, as it thinks necessary, forward to the State Government a copy of the record of its proceedings held by it together with a report setting forth its recommendations on the objections or suggestions.

(*4*) If, before the expiration of the time allowed by sub-section (*2*) for the filing or hearing of objections or suggestions, no objection or suggestion has been made, the State Government shall proceed at once to issue the notification under sub-section (*1*). If any such objection or suggestion has been made, the State Government shall consider the record and the report referred to in sub-section (*3*) and may either—

(*a*) abandon the proposal to issue the notification under sub-section (*1*), or

(*b*) issue the notification under sub-section (*1*) with such modifications, if any, as it thinks fit.

(*5*) In considering the objections or suggestions, the decision of the State Government on the question of issuing the notification under sub-section (*1*) shall be final and conclusive.

Map to be prepared and maintained.

8. Within two months from the date of publication of the notification under sub-section (*1*) of section 7 fixing the highway boundary, building line and control line with respect to any highway, the Highway Authority shall cause a map to be made of the area through which such highway passes and shall cause to be marked thereon the highway boundaries and building and control lines and any other particulars necessary for the purposes of this Act and within one month from the date of making any alteration or addition thereto cause the said map to be corrected and such map with the date indicated thereon of the last time when the same shall have been so corrected shall be kept in the office of the Highway Authority. Such map, which shall bear the seal of the Highway Authority, shall be open to inspection. Copies of such map shall also be kept for inspection at such other places as may be prescribed.

Restrictions on buildings between highway boundary and building line and between building and control lines.

9. (*1*) Notwithstanding anything contained in any law, custom, agreement or instrument for the time being in force, on or after the appointed day the following restrictions shall, subject to the provisions of this Act, be in force, that is to say, —

no person shall, without the previous permission in writing of the Highway Authority,—

(*a*) upon any land lying between the highway boundary and the building line proposed to be fixed under sub-section (*2*), or fixed under sub-section (*1*), of section 7, as the case may be,

(*i*) construct, form or lay out any means of access to, or from, a highway, or

(*ii*) erect any building, or

(*iii*) materially alter any existing building, or

(*iv*) make or extend any excavation, or

(*v*) construct, form or lay out any works ; or

(*b*) upon any land lying between the building line and the control line proposed to be fixed under sub-section (*2*), or fixed under sub-section (*1*), of section 7, as the case may be,

(*i*) construct, form or lay out any means of access to, or from, a highway, or

(*ii*) erect any building, or

(*iii*) materially alter any existing building ;

(*c*) use any building or alter the use of any building already erected in a manner which in the opinion of the Highway Authority will, in any manner whatsoever, infringe any of the provisions of this Act or interfere with the use of a highway adjoining the land on which such building is erected.

(*2*) Every person desiring to obtain such permission under sub-section (*1*) shall make an application in writing to the Highway Authority in such form and containing such information as may be prescribed in respect of the building, alteration, excavation, works or means of access, as the case may be, to which the application relates.

(*3*) On receipt of such application, the Highway Authority, after making such enquiries as it may consider necessary, shall, by order in writing, either—

(*a*) grant the permission, subject to such conditions, if any, as may be specified in the order, or

(*b*) refuse to grant such permission :

Provided that—

(i) permission under clause (*a*) of sub-section (*1*) to the making of any excavation or construction, formation or laying out of works in land for the purpose of repairing, renewing, enlarging or maintaining any underground sewer, drain, electric line, pipe, duct or other apparatus shall not be withheld nor be made subject to any conditions save such as may be necessary for securing that the sewer, drain, electric line, pipe, duct or other apparatus shall be laid in such manner and at such levels that the construction, maintenance, development or improvement of a road thereover will not be prevented or prejudicially affected thereby ;

(ii) permission under clause (*b*) of sub-section (*1*) to the erection or alteration of a building or laying out any means of access to a highway which conforms to the requirements of public health, and welfare and of safety and convenience of traffic on the adjoining road shall neither be withheld nor made subject to unreasonable conditions :

Provided that in the case of means of access required for agricultural purposes such permission shall neither be withheld nor be made subject to any conditions save such as may be necessary for securing that the means of access shall be used for agricultural purposes only ;

(iii) permission under clause (*b*) of sub-section (*1*) to the re-erection or alteration of a building which was in existence before the appointed day shall neither be withheld nor made subject to restrictions unless such re-erection or alteration involves any material alteration to the outside appearance of the building.

(*4*) When the Highway Authority refuses permission, the reasons therefor shall be recorded and communicated to the applicant :

Provided that nothing herein contained shall debar a person from making a fresh application after omitting therefrom the objectionable features communicated to him as aforesaid on account of which such permission was refused.

(*5*) If at the expiration of a period of three months after an application for such permission specifying the name and address of the applicant has been made to the Highway Authority, or such further period not exceeding three months as may have been notified by the Highway Authority has elapsed and no decision has been notified in writing, posted or delivered to the applicant at that address, then (except as may otherwise be agreed in writing between the Highway Authority and the applicant) permission shall be deemed to have been given without the imposition by the Highway Authority of any conditions.

(6) The Highway Authority shall maintain a register with sufficient particulars of all permissions given or refused by it under this section and the register shall be available for inspection free of charge by all persons interested and such persons shall be entitled to take extracts therefrom.

Explanation.—For the purpose of this section, the "appointed day" shall, with reference to any highway boundary, building line or control line, mean—

(1) the day on which a notification is published in the *Official Gazette* under sub-section (2) of section 7 proposing to fix such highway boundary, building line or control line, and

(2) if any modification is made in such highway boundary, building line or control line, the day on which the notification is published under sub-section (1) of section 7 fixing such highway boundary, building line or control line.

Appeal.

10. (1) If any applicant is aggrieved by any decision of the Highway Authority under section 9, withholding permission, or imposing any condition, he may appeal to the State Government within 30 days from the date on which such decision was communicated to him.

(2) The State Government may, after giving an opportunity to the applicant to be heard, make such order as it thinks fit upon the appeal and the decision of the State Government shall be final.

Exemptions for works in progress, etc.

11. (1) No restrictions in force under section 9 shall apply to the erection or making of a building or excavation or to the construction, formation or laying out, of any means of access or works begun before the appointed day referred to in section 9.

(2) No restrictions in force under section 9, except restrictions as to the construction, formation or laying out, of means of access, shall apply to any land forming part of a burial or cremation ground or other place for the disposal of the dead being land which has, before the passing of this Act, been used for such purpose.

(3) No restrictions in force under section 9 shall apply to any excavation or works necessary in connection with any drains, ditches, or other drainage works for agricultural purposes or to any works necessary for the repair, renewal, enlargement or maintenance of any sewer, drain, electric line, pipe, duct, or other apparatus, constructed in or upon the land before the date on which the restrictions came into force or with the consent of the Highway Authority on or after that date.

Setting back of buildings to building line or control line.

12. Whenever any building or any part thereof erected before the appointed day referred to in section 9 lies between the building line and the middle of the highway the Highway Authority may, whenever any such building or part has either entirely or in greater part been taken down, burnt down or fallen down, by notice require such building or part when re-erected to be set back to the building line or control line.

Regulation or diversion of right of access to highway.

13. (1) The Highway Authority may, if it is considered essential in the interests of safety or convenience of traffic, regulate or divert any existing right of access to a highway across land lying between the control line and the highway boundary:

Provided that the existing right of access shall not be diverted until alternative access has been given.

(2) Where the existing right of access is diverted, the point at which alternative access is given to the highway shall not be unreasonably distant from the existing point of access.

(*3*) The Highway Authority shall, by notification in the *Official Gazette*, publish the date on which the existing right of access has been diverted and alternative access has been given.

Powers of Highways Authority and officers and servants appointed under section 6 in respect of surveys.

14. For the purpose of carrying out any of the provisions of this Act, the Highway Authority and the officers and servants appointed under section 6 may—

(*a*) enter upon, survey and take measurements and levels of any land;

(*b*) mark such levels, dig or bore into the subsoil of any land;

(*c*) demarcate the boundaries of the highway by planting stones or other suitable marks in different colours of a durable nature at intervals all along the highway in such a manner that the imaginary line joining such stones or marks shows the road boundary correctly;

(*d*) where there are bends or kinks on the road boundary, locate the stones or marks in different colours so as to give the correct configuration of the boundary if they are joined by straight lines;

(*e*) give consecutive numbers to such boundary stones or marks and maintain them on the ground as if they constituted part of the highway;

(*f*) lay out the building and control lines by placing marks in different colours and cutting trenches;

(*g*) if the survey cannot otherwise be made, or measurements or levels taken or boundaries marked and lines laid out, cut down and clear away any standing crop, tree, fence or jungle or any part thereof;

(*h*) do all other acts necessary in that behalf:

Provided that the Highway Authority shall not, except with the consent of the occupier thereof, enter or permit any of the officers or servants to enter any premises without previously giving such occupier at least forty-eight hours' notice in writing of its intention to do so.

Acquisition of land or right or interest in land.

15. If at any time on the application of the Highway Authority, the State Government is satisfied that any land required for the purposes of a highway or any right or interest of any person in any land required for the said purposes should be compulsorily acquired or extinguished, as the case may be, it shall be lawful for the State Government to publish a notification to that effect in the *Official Gazette*. Such notification shall also be published in such other manner as may be prescribed. A notification so published shall be deemed to be a declaration that the land is needed, or as the case may be, the right or interest is required to be extinguished for the purpose of the highway; and such declaration shall be conclusive that the land is so needed, or the right or interest is so required to be extinguished.

Land required to be marked and measured.

16. The Highway Authority or any officer or servant authorised by the Highway Authority shall thereupon cause the land to be marked out. It shall also cause it to be measured and if no plan is made thereof, a plan to be made of the same.

Public notice and other notices of such requirement for acquisition.

17. (*1*) The Highway Authority shall then cause a public notice to be given at convenient places on or near such land stating that the State Government intends to take possession of the land, or as the case may be, to extinguish any right or interest in the land and that claims to compensation for all interest in such land, or any right or interest in land to be extinguished may be made to such officer as the Highway Authority may designate.

(2) Such notice shall state the particulars of the land so needed or right or interest in land to be extinguished and shall require all persons interested in the land or in the right or interest to be extinguished to appear personally or by agent before such officer as may be designated, at the time therein mentioned (such time not being earlier than fifteen days after the date of the publication of the notice) and to state the nature of their respective right or interest in the land, or as the case may be, in the right or interest to be extinguished and the amount and the particulars of their claims to compensation for such right or interest or both and their objections, if any, to the measurements made under section 16. The Highway Authority may, in any case, require such statement to be made in writing and signed by the party or his agent.

(3) The Highway Authority shall also serve notice to the same effect on the occupier of such land and on all such persons known or believed to be interested therein or to be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the district in which the land is situate.

(4) In case any person so interested resides elsewhere, a notice shall be served in the manner provided in section 70.

Persons required to make statements regarding other persons having interest.

18. (1) The Highway Authority or the officer authorised by it may also require any such person to make or deliver to it or him at a time not being earlier than fifteen days after the date of the requisition a statement containing, as far as may be practicable, the name of every other person possessing any interest in the land or in any part thereof, or as the case may be, in any right or interest in land to be extinguished as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits, if any, received or receivable on account thereof in respect of the three years next preceding the date of such statement.

(2) Every person required to make or deliver a statement under this section or under section 17 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

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Taking possession of land.

19. At any time after the publication of a notification under section 15, the State Government may direct that the land specified in the notification shall be taken possession of, or as the case may be, the right or interest specified therein shall be extinguished from such date as may be specified in the direction. From such date the said land shall vest absolutely in the State Government free from all encumbrances, or as the case may be, such right or interest therein shall be extinguished.

CHAPTER IV

Prevention of unauthorized occupation of, and encroachment on, a highway and removal of encroachment.

Lands forming part of highway deemed to be Government property.

20. All lands forming part of a highway which do not already vest in the State Government shall, for the purpose of this Chapter, be deemed to be the property of the State Government.

Prevention of unauthorized occupation of highway.

21. (*1*) No person shall occupy or encroach on any highway within the highway boundaries without obtaining the previous permission in writing of the Highway Authority or an officer authorized in this behalf by the Highway Authority.

(*2*) The Highway Authority or an officer authorized by the Highway Authority in this behalf may, with due regard to the safety and convenience of traffic and subject to such conditions as may be imposed and such rules as may be prescribed by the State Government, and on payment of such rent or other charges as may be prescribed under such rules, permit any person,—

(i) to place a temporary encroachment on any highway in front of any building owned by him or make a temporary structure overhanging the highway, or

(ii) to put up a temporary awning or tent, pandal or other similar erection or a temporary stall or scaffolding on any highway, or

(iii) to deposit or cause to be deposited building materials, goods for sale or other articles on any highway, or

(iv) to make a temporary excavation for carrying out any repairs or improvements to adjoining buildings:

Provided that no such permission shall be deemed to be valid beyond a period of one year unless expressly renewed by the Highway Authority or the authorized officer.

(*3*) The permission so granted shall clearly specify the date up to which the person is authorized to occupy the highway, the purposes for which occupation is authorized and the exact portion of the highway permitted to be occupied, and shall also be accompanied by a plan or sketch of that portion of the highway, if necessary.

(*4*) The person in whose favour such a permission has been given shall produce the permit for inspection whenever called upon to do so by the Highway Authority or any officer by a general or special order empowered in that behalf and shall at the end of the period specified in the permit release the land occupied by him after restoring it to the same state as before the occupation by him.

(*5*) The Highway Authority or the officer issuing the permission shall maintain a complete record of all such permissions issued, and shall also cause a check-up to be made in every case at the expiration of the period up to which occupation has been authorized to ensure that the land has actually been vacated.

Power to cancel permit.

22. (*1*) The Highway Authority may cancel any permission granted under section 21—

(*a*) if any rent or charge is not duly paid,

(*b*) if the purpose for which the permission was given has ceased to exist,

(*c*) in the event of any breach by the holder of such permission or of any terms or conditions of such permission,

(*d*) if the land on which such encroachment has been made is required for any public purpose or such encroachment is causing impediment or danger to traffic.

(*2*) Where the permission has been cancelled under clause (*b*) or (*d*) of sub-section (*1*), any rent or charge paid in advance shall be refunded to the holder of such permission less the amount, if any, due to the State Government.

Prevention of encroachment.

23. (*1*) When as a result of check of highway boundaries made or otherwise, it transpires that an encroachment has taken place on a highway the Highway Authority or the officer authorized under sub-section (*1*) of section 21 shall serve a notice on the person responsible for the encroachment or his representative requiring him to remove such encroachment and restore the land to its original condition before the encroachment within the period specified in the notice.

(*2*) The notice shall specify the land encroached upon and the time-limit within which such encroachment shall be removed and shall also state that failure to comply within the specified period shall render the person liable to prosecution and also to summary eviction.

(*3*) If the encroachment is not removed within the time-limit specified in the notice and no valid cause is shown for non-compliance, the Highway Authority or the authorized officer referred to in sub-section (*1*) may prosecute such person before the appropriate Magistrate for his having made or caused the encroachment and for his failure to remove it within the specified time.

(*4*) Where the encroachment is made for the purpose of exposing articles for sale, opening temporary booths for vending or other like purpose of a trivial nature the Highway Authority or the authorized officer referred to in sub-section (*1*) may, with the help of the police, if necessary, have such encroachment summarily removed without issuing a notice as required by sub-section (*1*), or in lieu of removal of the encroachment, may give the person responsible for the encroachment option of executing a lease in favour of the Highway Authority on payment of rent for the area encroached upon.

(*5*) When the encroachment is of a temporary nature and can easily be removed but is not such as can be described as trivial within the meaning of sub-section (*4*), the Highway Authority or the authorized officer referred to in sub-section (*1*) may in addition to or in lieu of prosecuting the person responsible for the encroachment under sub-section (*3*) have the encroachment summarily removed with the assistance of the police, if necessary.

(*6*) Where the encroachment is of such a nature that its immediate removal is considered essential in the interests of safety of traffic on the highway or the safety of any structure forming part of the highway, the Highway Authority or the authorized officer referred to in sub-section (*1*) may, in addition to prosecution of the person under sub-section (*3*), either—

(i) have such protective work, as may be feasible at a reasonable cost, carried out so as to minimise the danger to traffic on the highway, or

(ii) have the encroachment removed with the help of the police, if necessary.

Appeal against notice served under sub-section (*1*) of section 23.

24. Where the person on whom notice to remove an encroachment has been served under sub-section (*1*) of section 23 lays claim that the land in respect of which encroachment has been alleged is his property or that he has acquired a right over it by virtue of adverse possession or otherwise he shall within the time-limit prescribed in the notice for the removal of the encroachment, file an appeal before the Collector under intimation to the Highway Authority or the officer authorized under sub-section (*1*) of section 21, as the case may be. The Collector shall after due enquiry record his decision in writing and communicate the same to the appellant and the Highway Authority or such officer. The Highway Authority or such officer shall till then desist from taking further action in the matter.

Recovery of cost of removal of encroachment.

25. (*1*) Whenever the Highway Authority or the officer authorized under sub-section (*1*) of section 21 has under the provisions of section 23 removed any encroachment or carried out any protective work in respect of any encroachment, the expenditure involved shall be recovered from the person responsible for the encroachment in the manner hereinafter provided.

(*2*) A bill, representing the expenditure incurred shall be served by the Highway Authority or the authorized officer referred to in sub-section (*1*) on the person responsible for the encroachment or his representative with a direction to pay up the amount within a specified period to the authority mentioned in the bill.

(*3*) The bill shall be accompanied by a certificate from the Highway Authority or the authorized officer referred to in sub-section (*1*) to the effect that the amount of expenditure indicated in the bill represents the charges incurred and such a certificate shall be conclusive proof that the charges had actually been incurred.

(*4*) The materials, if any, recovered as a result of the removal of any encroachment shall be handed over to the person responsible for the encroachment on payment of the amount of the bill by him but in the event of his failure to pay up the amount within the specified period, the materials may be auctioned and after deducting the amount of the bill from the proceeds, the balance, if any, shall be made over to such person.

(*5*) If the proceeds of the auction sale do not cover the total amount billed for, the excess over the amount realised by the sale of materials, or if there are no materials to dispose of and the billed amount has not been paid by the person responsible for the encroachment within the specified period, the entire amount of the bill shall be recovered from such person as an arrear of land revenue.

Chapter V.

Compensation.

Doing minimum damage in certain cases and compensation.

26. In the exercise of the powers under the following provisions by the Highway Authority or any officer or servant appointed under section 6 or any other person authorised by or under this Act by the State Government, as little damage as can be shall be done and compensation in the manner prescribed by or under this Act shall be paid to any person who sustains damage in consequence of the exercise of such powers, namely :—

(*a*) the imposition of restrictions under section 9 ;

(*b*) the setting back of any building or part thereof under section 12 ;

(*c*) the regulation or diversion of any right of access to a highway under section 13 ;

(*d*) the entry, survey, measurement and doing of any of the acts on any land under section 14 ;

(*e*) the acquisition of any land or the extinguishment of any right or interest in the land under section 15 ;

(*f*) the closure of any highway or part thereof under section 52.

Determination of amount of compensation by agreement.

27. The amount of compensation payable under section 26, the persons to whom it is to be paid and the apportionment of such amount among the persons interested therein shall be determined by agreement between the Highway Authority or any officer authorised by the State Government and the person or persons claiming interest therein.

Determination of amount of compensation in default of agreement.

28. (*1*) In default of any agreement under section 27, the Highway Authority or the officer authorised by the State Government shall, subject to the provisions of this Act, after holding an enquiry, make an award determining—

(*a*) the true area of the land, if any, acquired,

(*b*) the amount of compensation to be paid under section 26,

(*c*) the apportionment, if any, of such compensation among all persons known or believed to be entitled thereto.

(*2*) In determining the amount of compensation the matters specified in sections 23 and 24 of the Land Acquisition Act, 1894, as amended by the Schedule to this Act shall be taken into consideration.

1 of 1894.

No compensation if similar restrictions in force under any other law or if compensation already received.

29. No compensation shall be awarded—

(*i*) if and in so far as the land is subject to substantially similar restrictions in force under some other law which was in force on the date on which the restrictions were imposed by this Act;

(*ii*) if compensation in respect of the same restrictions imposed under this Act or substantially similar restrictions in force under any other law has already been paid in respect of the land to the claimant or to any predecessor in interest of the claimant.

Compensation for refusal of permission to build not to exceed difference between its value when it was refused and when it would have been granted.

30. When permission to erect any building has been refused under section 9 or 10, the amount of compensation shall not exceed the difference between the value of the land as determined by section 23 or 24 of the Land Acquisition Act, 1894, as amended by the Schedule to this Act and the value which it would have had if the permission had been granted. In determining such value any restrictions to which the land is subject under any other law for the time being in force in regard to the right of person claiming compensation to erect a building on the land or otherwise to use, hold or dispose of the same shall be taken into consideration.

1 of 1894.

Compensation for diversion of access not to exceed cost of alternative access.

31. Where the right of access to a highway has been destroyed as a result of the diversion or closure thereof and an alternative access has been given, the amount of compensation shall in no case exceed the cost of laying a new means of access from the property of the claimant to such alternative route.

Compensation for cutting of standing crops, trees, etc.

32. (*1*) At the time of an entry, survey or measurement or doing of any of the things under section 14, the officer making the entry, survey or measurement or doing any other thing shall pay or tender to any person entitled compensation for all necessary damage done as a result of such entry, survey, measurement or execution of the work, including the cutting of standing crops, trees, or removal of temporary structures, if any, on the land. If the sufficiency of the amount so paid or tendered is disputed, the officer concerned shall at once refer the dispute to the Highway Authority and the said Authority shall with the least practicable delay decide the dispute and pay to the person entitled the amount determined as compensation. The decision of the Highway Authority shall be final.

(*2*) If at the time of taking possession of the land under section 19 there are any standing crops, trees or temporary structures on the land, the Highway Authority

shall pay or tender to the person entitled the amount of compensation for such standing crops, trees or temporary structures. If the sufficiency of such amount is disputed, the value of such crops, trees and temporary structures shall be taken into consideration in determining the amount of compensation for the land under section 28.

No compensation for unauthorised erections.

33. If any person has unauthorisedly erected, re-erected, added or altered any building on any land which is acquired for the purpose of a highway, then any increase in the value of the land from such erection, re-erection, addition or alteration shall not be taken into account in estimating the value of the land.

No compensation for removal of encroachment.

34. No compensation shall be payable for the removal of any encroachment.

Reference against award of Highway Authority or authorized officer under section 28.

35. (*1*) Any person aggrieved by the award of the Highway Authority or the officer authorized under section 28 may, by a written application to the Highway Authority or such officer, require that the matter be referred, if the land in relation to which the award is made is situate,—

(*i*) in Greater Bombay, to the Principal Judge of the City Civil Court or such other Judge of the said Court as may be nominated by the State Government in consultation with the Principal Judge ; and

(*ii*) elsewhere, to the Civil Judge (Senior Division) of the district within the limits of whose jurisdiction such land is situate.

(*2*) Any such application shall be made within six weeks from the date of the award, and shall be in such form as may be prescribed.

(*3*) The provisions of sections 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the computation of the time fixed for reference under sub-section (*2*). IX of 1908.

(*4*) The Highway Authority or the Officer authorised shall make the reference in such manner as may be prescribed.

Procedure and powers of the authorities empowered to decide references under sections 35 and 44.

36. (*1*) References under sections 35 and 44 shall be deemed to be proceedings within the meaning of section 141 of the Code of Civil Procedure, 1908, and in the trial thereof the authorities empowered to decide such references may exercise all the powers of a civil court under that Code. V of 1908.

(*2*) The scope of the enquiry in a reference under section 35 or 44 shall be restricted to a consideration of the matters referred to the authorities mentioned in sub-section (*1*) in accordance with the provisions of this Act.

Commissioner of Police or District Superintendent of Police to enforce, surrender or remove any encroachment.

37. If the Highway Authority or any officer or servant is opposed or impeded in taking possession of any land or in executing any work or in removing any encroachment under this Act, the Highway Authority or officer or servant concerned shall apply in Greater Bombay to the Commissioner of Police, and elsewhere, to the District Superintendent of Police or such Police officer as the State Government may empower in this behalf, and the Commissioner, the District Superintendent or the officer so empowered shall enforce the surrender, removal or execution, as the case may be.

38. The decisions of the authorities empowered to decide references under sections 35 and 44 shall be enforceable as a decree of a civil court. Decisions of authorities under sections 35 and 44 to be enforced as decrees of civil court.

39. (*1*) On the determination of compensation by agreement under section 27 or Payment of compensation awarded.

(*2*) on the making of an award under section 28, or

(*3*) if a reference is made under section 35 against such award, after the decision of the Authority under that section,

the Highway Authority shall make the payment of the compensation awarded to the person entitled thereto in accordance with the agreement, its award or the decision of the Authority empowered to decide references under section 35, as the case may be. The provisions of sections 31 to 34 (both inclusive) of the Land Acquisition Act, 1894, shall, *mutatis mutandis*, apply to such payment.

I of 1894.

40. All payments due to be made to any person by way of compensation by the Highway Authority under this Act shall, as far as possible, be made by adjustment in such person's account regarding betterment charges, if any, due from such person under Chapter VI. Payment by adjustment.

CHAPTER VI.

Levy of Betterment Charges.

41. Where any work which the Highway Authority is empowered to undertake by or under the provisions of this Act is undertaken the officer authorized by the State Government in this behalf shall give notice to the persons known or believed to be the owners of or interested in the lands benefited by such work requiring them to appear before him either personally or by an agent at a time and place therein mentioned (such time not being earlier than 30 days from the date of notice) to state their objections, if any, to the imposition and recovery of betterment charges on such lands: Notice to owners and persons interested.

Provided that no such notice shall be given unless the Collector with the previous sanction of the State Government has declared that the value of such lands is likely to increase or has increased by reason of the construction of such work.

42. On the date fixed under section 41 or on such other date to which the inquiry may be adjourned, the officer authorized under section 41 shall, after holding a formal inquiry and after hearing the objections, if any, stated by the persons as required by notice under section 41, make an order. The order shall specify,— Inquiry and order.

(*a*) the lands benefited by the construction of the work,

(*b*) the increase in the value of such lands by the proposed construction,

(*c*) the amount of the betterment charges leviable on each of the said lands,

(*d*) the date from which such betterment charges shall be leviable:

Provided that no betterment charges shall be leviable in respect of any land—

(*a*) which is unsuitable for development as a building site, or

(*b*) which is situate beyond a distance of one furlong from the middle of the highway on either side.

Increase in value and betterment charges.

43. The increase in value on account of the construction of such work shall be the amount by which the value of the land on the date of the completion of the proposed work is likely to exceed or has exceeded the value of the land on the date of the commencement of the said work and the betterment charges shall be one-half of such increase in value.

Explanation.—For the purposes of this section, the State Government shall, by notification in the *Official Gazette*, specify—

(*a*) the date of commencement of the construction of any work,

(*b*) the date of completion of such work.

Reference against order of authorized officer under section 42.

44. (*1*) Any person aggrieved by the order fixing the betterment charges may, by a written application to the officer authorized under section 41, require that the matter be referred, if the land in relation to which the order is made is situate,—

(*i*) in Greater Bombay, to the Principal Judge of the City Civil Court or such other Judge of the said Court as may be nominated by the State Government in consultation with the Principal Judge ; and

(*ii*) elsewhere, to the Civil Judge (Senior Division) of the district within the limits of whose jurisdiction the land is situate.

(*2*) Any such application shall be made within six weeks from the date on which the order of the officer referred to in sub-section (*1*) was communicated to such person and shall be in such form as may be prescribed.

(*3*) The provisions of sections 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the computation of the time fixed for reference under sub-section (*2*). IX of 1908.

(*4*) The Officer authorized under section 41 shall make the reference in such manner as may be prescribed.

Finality of order fixing betterment charges and of decision on reference.

45. The order fixing the betterment charges made under section 42, subject to a reference to the Authority under section 44 and the decision of the Authority on reference under section 44, shall be final.

Betterment charges to be first charge on land next to land revenue.

46. From the date specified in the order fixing the betterment charges as the date from which such charges shall be leviable, or from such date as may be otherwise specified by the Authority under section 44 as the date from which such charges shall be leviable, the betterment charges recoverable in respect of any land shall, subject to the prior payment of the land revenue, if any, due to the State Government thereon, be a first charge on the land in respect of which such betterment charges are leviable.

Payment of betterment charges.

47. The betterment charges shall be payable on the date fixed under the rules made by the State Government under section 71 :

Provided that the owner of the land on which such charges are imposod may execute an agreement in favour of the State Government agreeing to pay the amount of such charges by annual instalments together with interest at such rate and within such period as may be prescribed.

48. Notwithstanding anything contained in section 47, the State Government may allow the owner of the land on which the betterment charges may be payable to relinquish the whole or any part of the land or to deliver it in exchange in lieu of payment of the charges, in favour of the State Government on such conditions as may be prescribed : Relinquishment of or exchange of land in lieu of payment of betterment charges.

Provided that no such relinquishment or exchange shall be permitted unless the land is free from encumbrances.

CHAPTER VII.

Supplemental provisions to secure safety of traffic and prevention of damage to highways.

49. (*1*) Whenever the Highway Authority is of opinion that it is necessary for the prevention of danger arising from obstruction of the view of persons using any highway, especially at any bend or corner of the highway, it may, save as otherwise provided in section 11, serve a notice upon the owner or occupier of land alongside or at the bend or corner of such highway to alter within such time and in such manner as may be specified in the notice, the height or character of any existing wall (not being a wall forming part of a permanent structure), fence, hedge, tree, advertisement post, bill board or any other object thereon, so as to cause it to conform with any requirements specified in the notice. Prevention of obstruction of view of persons using any highway.

(*2*) If any person upon whom a notice has been served under sub-section (*1*) objects to comply with any requirement of such notice, he may, within one month of its receipt, send to the Highway Authority his objection in writing stating the grounds thereof.

(*3*) The Highway Authority shall, within one month of the receipt of the objection, consider the grounds advanced and shall, by order in writing, either withdraw the notice or amend or confirm it.

(*4*) If a person is aggrieved by an order issued by the Highway Authority under sub-section (*3*), he may prefer an appeal within 15 days from the date when such order was communicated to him, to the Collector whose decision in the matter shall be final.

(*5*) If any person fails to comply with the notice served on him under sub-section (*1*) as amended or confirmed, as the case may be, under sub-section (*3*), the Highway Authority may take action to alter the object causing obstruction of view at its own expense, and such expenditure shall be recovered from such person in accordance with the provisions of section 25, without prejudice to any other action which may be taken against him.

50. If at any time it appears to the Highway Authority that any highway in its charge or any portion thereof is or has been rendered unsafe for vehicular or pedestrian traffic by reason of damage or otherwise, it may, subject to such rules as may be prescribed in this behalf, either close the highway or the portion of it to all traffic or to any class of traffic, or regulate the number and speed or weight of vehicles using the highway. Highway Authority to regulate traffic when highway declared unsafe.

51. Where the Highway Authority is satisfied that any highway or a portion thereof, or any bridge, culvert or causeway built on or across any highway, is not designed to carry vehicles of which the laden weight exceeds such limit as may be fixed in this behalf, it may, subject to such rules as may be prescribed in that behalf, prohibit or restrict the plying of such vehicles on or over such highway or such part of the highway or such bridge, culvert or causeway. Prohibition of use of heavy vehicles on certain highways.

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Procedure to be followed when Highway Authority desires permanently to close any highway.

52. (*1*) Where in exercise of the powers conferred on it by section 50 the Highway Authority desires permanently to close down any highway or part thereof, it shall give notice of its intention so to do in the *Official Gazette*. The notification shall also be published in at least two newspapers, one of which shall be in the regional language of the place in which the highway is situated.

(*2*) The notice shall indicate the alternative route, if any, which is proposed to be provided or which may already be in existence, and shall also invite objections, if any, to the proposal to be submitted within such time as may be specified.

(*3*) The Highway Authority shall finalise its proposal to close down any highway or part of it after considering the objections, if any, received within the specified time and shall submit the final proposal to the State Government for approval together with such objections as may have been received against the proposal.

(*4*) The State Government may either approve the proposal, with or without modifications, or reject it.

(*5*) When the State Government has approved the proposal it shall publish its orders in the *Official Gazette*.

(*6*) When the orders of the State Government have been published in the *Official Gazette*, the Highway Authority shall arrange for further publicity to be given to the orders in at least two newspapers one of which shall be in the regional language of the place in which such highway is situate and the highway or part thereof shall then be closed.

(*7*) Whenever any highway or any part thereof has been so closed, reasonable compensation shall be paid to every person who was entitled, otherwise than as a mere member of the public, to use such highway or part thereof as a means of access to or from his property and has suffered damage for such closure.

Consent of Highway Authority required to do certain acts on highway.

53. (*1*) Notwithstanding anything contained in any other enactment for the time being in force but subject to the provisions of section 72 no person other than the Highway Authority or any person authorised by it shall construct or carry any cable, wire, pipe, drain, sewer or channel of any kind through, across, under or over any highway, except with the permission in writing of the Highway Authority.

(*2*) In giving its consent, the Highway Authority may impose such conditions as it may deem to be necessary, and may also impose a rent or other charge for any land forming part of the highway occupied by or applied to the proposed work.

(*3*) If any person constructs or carries out any work in contravention of sub-section (*1*), the Highway Authority may arrange for the removal of such work and restoration of the highway to its former condition in accordance with the provisions of section 23 as if the work constituted an encroachment on the highway, and such expenses as the Highway Authority may incur for this purpose, shall, without prejudice to any other action that may be taken against such person, be recovered from him in accordance with the procedure provided in section 25 in so far as that procedure is applicable.

Prevention and rectification of damaged highway.

54. (*1*) No person shall wilfully cause, or allow any vehicle or animal in his charge to cause any damage to any highway.

(*2*) Where in contravention of sub-section (*1*) any damage has been caused to any highway, the Highway Authority shall have the damage repaired and the expenses involved shall, without prejudice to any other action that may be taken against the person responsible for the contravention of sub-section (*1*), be recovered from him in accordance with the procedure provided in section 25 in so far as that procedure is applicable.

CHAPTER VIII.

Penalties.

Disobedience of orders, instructions and refusal to give information, etc.

55. Whoever wilfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction, or obstructs any person or authority in the discharge of any functions that such person or authority is required or empowered under this Act to discharge, or, being required by or under this Act to supply any information, withholds such information or gives information which he knows to be false or which he does not believe to be true shall, on conviction, be punished with fine which may extend to two hundred rupees.

Contravention of restrictions relating to access or erecting any building, etc.

56. Whoever erects, alters or extends any building, or makes any excavation, or constructs any means of access to or from a highway or does any other work in contravention of the provisions of section 9, shall, on conviction, be punished—

(*a*) with fine which may extend to five hundred rupees, and

(*b*) with further fine which may extend to one hundred rupees for each day after such conviction, during which the offending structure or work is not removed, demolished or cleared and the site not restored to its original condition.

Unauthorized occupation of highway.

57. Whoever —

(*a*) occupies or makes any encroachment on any highway in contravention of the provisions of sub-section (*1*) of section 21, or

(*b*) fails to comply with the notice served on him under sub-section (*1*) of section 23 for no valid reason,

shall, on conviction, be punished—

(*a*) for a first offence with fine which may extend to two hundred and fifty rupees,

(*b*) for a subsequent offence in relation to the same encroachment with fine which may extend to five hundred rupees plus a further fine not exceeding fifty rupees per day on which such occupation of the highway or encroachment continues.

Causing damage to highways.

58. Whoever in contravention of sub-section (*1*) of section 54 wilfully causes, or allows any vehicle or animal in his charge to cause any damage to any highway, shall, on conviction, be punished with fine which may extend to one thousand rupees.

General provision for punishment of offences.

59. Whoever contravenes any provision of this Act or of any rule or order made thereunder shall, if no other penalty is provided for the offence, on conviction, be punished—

(*a*) for a first offence with fine which may extend to fifty rupees,

(*b*) for a subsequent offence with fine which may extend to two hundred rupees.

Power to compound offences.

60. Any offence committed under this Act may be compounded by the Highway Authority and if any proceedings have been instituted against any person in any criminal court, then on the terms of the compromise being carried out, the composition shall be held to amount to an acquittal and in no case shall any further proceedings be taken against such person or any property of such person with reference to the same facts.

CHAPTER IX.

Miscellaneous.

Powers and duties of police.

61. Every police officer shall forthwith furnish information to the nearest Highway Authority, or the nearest officer subordinate to the Highway Authority of any offence coming to his knowledge which has been committed against this Act or any rule made under this Act, and shall be bound to assist the Highway Authority and its officers and servants in the exercise of their lawful authority.

Duties of village officials.

62. Every village headman, village accountant, village watchman or other village official by whatever name called, shall forthwith inform the nearest police station or the nearest Highway Authority or any officer duly authorised by the Highway Authority, whenever he becomes aware that any survey mark or any boundary mark of any highway or any mark showing the building or control line determined in respect of a highway has been destroyed, damaged, removed, displaced or otherwise tampered with, or that any damage to any highway or encroachment on any highway has been made.

Power to utilise highway for other than road purposes.

63. The Highway Authority may utilise temporarily for other than road purposes land forming part of a highway which is not immediately required for the passage of traffic, and dispose of the produce of such land.

Summary eviction.

64. Any person wrongfully occupying any land,—

(*a*) which is a part of a highway,

(*b*) the occupation of which contravenes any of the provisions of this Act and the said provisions do not provide for the eviction of such person,

shall be summarily evicted by the Collector in the manner provided in the Bombay City Land Revenue Act, 1876, or in the Bombay Land Revenue Code, 1879, as the case may be, on being required to do so by the Highway Authority or any officer authorized in this behalf by the State Government. Bom. II of 1876. Bom. V of 1879.

Inquiries to be held summarily.

65. (*1*) The Highway Authority or the officer authorized by the State Government in this behalf shall, if he desires to make any inquiry for the purposes of this Act, make the inquiry in the manner provided for holding a summary inquiry under the Bombay City Land Revenue Act, 1876, or the Bombay Land Revenue Code, 1879, and all the provisions contained in the said Act or Code relating to the holding of a summary inquiry, shall, so far as may be, apply. Bom. II of 1876. Bom. V of 1879.

(2) The Highway Authority and an officer authorized by the State Government or the Highway Authority under this Act shall have the same powers for summoning and enforcing the attendance of any person and examining him on oath and compelling the production of documents as are vested in the revenue officers under the Bombay City Land Revenue Act, 1876, or the Bombay Land Revenue Code, 1879.

Bom. II of 1876. Bom. V of 1879.

Registration of map made under section 8 not required.

66. (1) Nothing in the Indian Registration Act, 1908, shall be deemed to require the registration of any map made under section 8.

XVI of 1908.

(2) All such maps shall, for the purposes of sections 49 and 50 of the Indian Registration Act, 1908, be deemed to have been and to be registered in accordance with the provisions of that Act:

Provided that the maps shall be accessible to the public in the manner prescribed.

Certain persons to be public servants.

67. The Highway Authority, the officers and other persons authorized or appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Bar of jurisdiction.

68. No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the Highway Authority, the Collector, an officer or person authorized under this Act, any Authority under section 35 or section 44 or the State Government.

Protection of persons acting in good faith and limitation of suit or prosecution.

69. (1) No suit, prosecution or other legal proceedings shall be instituted against any public servant or officer or person duly authorized under this Act in respect of anything in good faith done or intended to be done under this Act, or the rules or orders made thereunder.

(2) No suit or prosecution shall be instituted against any public servant or officer or person duly authorized under this Act in respect of anything done or intended to be done under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

Service of notices and bills.

70. (1) Every notice or bill issued or prepared under this Act, may be served or presented,—

(a) by delivering or tendering it or sending it by post to the person to whom it is addressed, or to his agent, or

(b) if such a person or his agent is not found then by leaving it at his usual or last known place of abode or by delivering or tendering it to some adult male member of his family or by causing it to be fixed on some conspicuous part of the building or land, if any, to which it relates.

(2) Where a notice under this Act is required to be served upon an owner or occupier of a building or land, it shall not be necessary to name the owner or occupier, and the service thereof may be effected either—

(a) by delivering or tendering the notice or sending it by post to the owner or occupier or if there be more owners or occupiers than one, to any one of them, or

(b) if no such owner or occupier is found, then by giving or tendering the notice to an adult male member or servant of his family or by causing the notice to be fixed on some conspicuous part of the building or land to which the same relates.

(3) Whenever the person to whom a notice or bill is to be served is a minor, service upon his guardian or upon an adult male member or servant of his family shall be deemed to be service upon the minor.

Power to make rules.

71. (1) The State Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules for all or any of the following matters :—

(a) the manner in which the notification may be published in the village and at the headquarters of the taluka or mahal under sub-section (2) of section 7 ;

(b) the other places at which copies of map may be open to inspection under section 8 ;

(c) the form of application and its contents under sub-section (2) of section 9 ;

(d) the other manner of publishing the notification under section 15 ;

(e) the conditions on which and the amount of rent or charge on payment of which encroachments may be made on a highway ;

(f) the manner in which a reference shall be made under section 35 or 44 ;

(g) fixation of the date on which the betterment charges shall be payable under section 47 and instalments together with the rate of interest and the period within which such instalments shall be paid under the proviso to the said section ;

(h) the conditions on which any land may be relinquished or delivered in exchange in favour of the State Government under section 48 ;

(i) rules subject to which any highway or portion of it may be closed to traffic or any class of traffic or the number and speed or weight of vehicles using the highway may be regulated under section 50 ;

(j) rules subject to which plying of vehicles may be prohibited under section 51 :

(k) the prevention of obstruction of view of persons using highways and of annoyance, danger or injury to the public :

(l) the prevention of obstruction, encroachment and nuisances on or near and of damages to highways ;

(m) the proper maintenance of boundary marks demarcating highway boundaries and building and control lines ;

(n) the prescription of various forms of applications required to be made and the forms of notices and bills required to be served on persons, the charges to be made for the supply of copies of maps, and the rent or other charges to be imposed or levied under the provisions of this Act ;

(o) the general guidance of the Highway Authority in the discharge of its functions under this Act ;

(p) regulation or diversions of existing rights of access ;

(q) any other matter which is to be or may be prescribed.

Savings.

72. (1) Subject to the provisions of this section, nothing in this Act shall affect—

(a) the rights of any local authority to make any excavation for the purpose of laying, making, altering, repairing or renewing any sewer, drain, water course or other work ; or

(*b*) the rights of any authority appointed under any law for the time being in force for gas or water, electricity, railways, tramways or trolly vehicles to erect any support or make any excavation for the purpose of laying, making, altering, repairing or renewing any main, pipe, sluice, weir, electric line, duct, drain or other apparatus ; or

(*c*) any land belonging to a railway administration or belonging to or used by a person holding a licence or sanction for the generation, transformation or distribution of electricity under the Indian Electricity Act, 1910, when such land is held or used by the railway administration or such person, as the case may be, for the purpose of its railway or for generation, transformation or distribution of electricity, except in so far as they may consent thereto ; or

IX of 1910.

(*d*) any land within the limits of a cantonment or a port declared by or under any law made by Parliament or existing law to be a major port ;

(*e*) any land within the jurisdiction of a local authority under the administrative control of the Central Government :

Provided that—

(i) any restrictions in force under section 9 as to construction, formation or laying out of means of access to, or from, any road, shall without any such consent as aforesaid, extend to any such land as is specified in clause (*c*) in so far as the restrictions relate to means of access over or under such land to, or from, land other than land so specified ; and

(ii) any consent required for the purposes of this section shall not be unreasonably withheld and the question whether or not the consent so required is unreasonably withheld shall be determined by the State Government and the decision of the State Government on the question shall be final.

(*2*) Nothing in this Act shall affect any powers and duties of the telegraph authority under the provisions of the Indian Telegraph Act, 1885.

XIII of 1885.

Explanation.—For the purpose of this section the Bombay Housing Board constituted under the Bombay Housing Board Act, 1948, shall be deemed to be a local authority

Bom. LXIX of 1948.

73. Save as provided in section 72, the provisions of this Act or rules made thereunder in regard to any matter dealt with thereby shall prevail over the provisions of any other law made by the State Legislature or any law which the State Legislature is competent to make or to amend, in so far as such law is inconsistent with the said provisions or rules, and such law to the extent of such inconsistency shall cease to apply or shall not apply to any such matter.

Provisions of this Act or rules to prevail over inconsistent provisions in other laws.

74. For the avoidance of doubt it is hereby declared that nothing in this Act shall apply to highways which are or have been declared by or under any law made by Parliament to be national highways :

Building and control lines along national highways.

Provided that if any highway is declared to be a national highway by or under any law made by Parliament, it shall be lawful for the State Government to fix or not to fix the building and control lines for different portions of the said highway under section 7 and thereafter the provisions of this Act in so far as they apply to the restrictions on buildings between the highway boundary and the building line or between the building line and the control line and other provisions relating to such building and control lines shall, *mutatis mutandis*, apply.

SCHEDULE.

[*See* sections 28 (*2*) and 30.]

Amendments to the Land Acquisition Act, 1894.

Amendment of section 23 of Act I of 1894.

1. For section 23 of the Land Acquisition Act, 1894 (hereinafter called the said Act), the following shall be substituted, namely :— I of 1894.

Matters to be considered in determining compensation.

"23. In determining the amount of compensation to be awarded for the land or any interest therein acquired under this Act, the following matters shall be taken into consideration :—

(*1*) the market value at the date of the publication of the declaration under section 15 of the Bombay Highways Act, 1955 ; Bom. LV of 1955.

(*2*) the use to which the land was put at the date of such declaration ;

(*3*) the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time when the possession was taken from him ;

(*4*) the damage (if any) sustained by the person interested at the time of the possession being taken from him by reason of severing such land from his other land ;

(*5*) the damage (if any) sustained by the person interested at the time of the possession being taken from him of the land by reason of the acquisition injuriously affecting his other property, moveable or immoveable, in any other manner or his earnings ;

(*6*) if in consequence of the acquisition of the land the person interested is compelled to change his residence, or place of business, the reasonable expenses, if any, incidental to such change."

Amendment of section 24 of Act I of 1894.

2. For section 24 of the said Act, the following shall be substituted, namely :—

Matters to be neglected in determining compensation.

"24. But the following matters shall not be taken into consideration :—

(*1*) the degree of urgency which has led to the acquisition ;

(*2*) any disinclination of the person interested to part with the land acquired ;

(*3*) any damage sustained by him which, if caused by a private person, would not render such person liable to a suit ;

(*4*) any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 15 of the Bombay Highways Act, 1955, by or in consequence of the use to which it will be put ; Bom. LV of 1955.

(*5*) any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired ;

(*6*) any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put ;

(*7*) any outlay or improvements on, or disposal of the land acquired, commenced, made or effected without the sanction of the Highway Authority after the date of the publication of the declaration under section 15 of the Bombay Highways Act, 1955 ;

Bom LV of 1955.

(*8*) the special suitability or adaptability of the land for any purpose, if that purpose is a purpose to which it could be applied in pursuance of any law or for which there is no market apart from the special needs of the Highway Authority ;

(*9*) any increase in the value of the land by reason of the use thereof or any premises thereon in a manner which could be restrained by any court, or is contrary to law or is detrimental to the health of the inmates of the premises or to the public health."